

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CARLOS ALAMILLA-HERNANDEZ and)
JOHN BRIAN SMITH,)
)
Defendants.)

8:08CR451

ORDER

This matter is before the court on the motion to continue by defendant Carlos Alamilla-Hernandez (Alamilla-Hernandez) (Filing No. 49). Alamilla-Hernandez seeks a continuance of the trial of this matter which is scheduled for August 31, 2009. Alamilla-Hernandez has filed an affidavit wherein Alamilla-Hernandez represents that he consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 50). Alamilla-Hernandez's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Alamilla-Hernandez's motion to continue trial (Filing No. 49) is granted.
2. Trial of this matter **as to both defendants** is re-scheduled for **September 28, 2009**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **August 14, 2009 and September 28, 2009**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 14th day of August, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge